



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

NOV 03 2005

Kurt F. Zimmermann, Esq.
Silverstein & Osach, PC
234 Church Street, Suite 903
New Haven, CT 06510

RE: MUR 5453
Thomas M. Ariola, Jr.

Dear Mr. Zimmermann:

On October 20, 2005, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441b(a), 441a(f), 434(a)(1) and (b)(2), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to Mr. Ariola. Please be advised that the civil penalty in this agreement reflects mitigating factors brought forth during the investigation.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Christine C. Gallagher
Christine C. Gallagher
Attorney

Enclosure
Conciliation Agreement

26044131287

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4) MUR 5453
5 Thomas M. Ariola, Jr., in his personal capacity)
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7

8 **CONCILIATION AGREEMENT**
9

10 This matter was generated based on information ascertained by the Federal Election
11 Commission ("the Commission") in the normal course of carrying out its supervisory
12 responsibilities. See 2 U.S.C. § 437g(a)(2). Based upon available information, the Commission
13 found reason to believe Thomas M. Ariola, Jr. ("Respondent") violated 2 U.S.C. §§ 441b(a) and
14 441a(f). The Commission further found reason to believe that Respondent violated 2 U.S.C.
15 §§ 434(a)(1) and (b)(2). During its investigation the Commission concluded that Respondent
16 also knowingly and willfully violated the Act.

17 NOW, THEREFORE, the Commission and Respondent, having participated in informal
18 methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as
19 follows:

20 I. The Commission has jurisdiction over Respondent and the subject matter of this
21 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
22 § 437g(a)(4)(A)(i).

23 II. Respondent has had a reasonable opportunity to demonstrate that no action should
24 be taken in this matter.

25 III. Respondent enters voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:¹

1. The Giordano for U.S. Senate Committee ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was Philip Giordano's authorized committee for his 2000 Senatorial race in Connecticut.

2. Corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. *See* 2 U.S.C. § 441b(a). 2 U.S.C. § 441b(a) also makes it unlawful for any candidate, political committee, or other person knowingly to accept or receive a prohibited corporate contribution. *See id.*

3. 2 U.S.C. § 441a(f) prohibits any officer or employee of a political committee from knowingly accepting a contribution made for the benefit or use of a candidate in violation of any limitation imposed on contributions and expenditures.

4. Prior to implementation of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002), individuals were permitted to make contributions that did not exceed \$1,000 per election of any candidate for federal office. *See* 2 U.S.C. § 441a(a)(1) (2002).

5. Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of the Act. *See* 2 U.S.C. § 434(a)(1). Each report required to be filed under section 434(a) shall disclose the total amount of all receipts received by the Committee for the reporting period. *See* 2 U.S.C. § 434(b)(2).

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be

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6. Every political committee is required to have a treasurer and may designate an assistant treasurer, who shall assume the duties and responsibilities of the treasurer in the event there is a vacancy in the office, or if the treasurer is unavailable. *See* 11 C.F.R. § 102.7; *see also* 2 U.S.C. § 432(a).

7. The Act addresses violations of law that are knowing and willful. *See* 2 U.S.C. §§ 437g(a)(5)(B) and 437g(d). The phrase “knowing and willful” indicates that “actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law.” 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

8. In early 2000, Mr. Ariola was appointed Deputy Treasurer of the Committee, and remained Deputy Treasurer until he resigned by sending a letter to the Commission dated July 31, 2001. Beginning in 2000, when there was a vacancy in the office of the treasurer, Mr. Ariola began performing the functions of the treasurer.

9. Mr. Ariola, as Deputy Treasurer, knowingly and willfully accepted, on behalf of the Committee, contributions from individuals in excess of \$1,000. The total amount of excessive individual contributions received and not refunded is \$4,500.

V. Mr. Ariola, as Deputy Treasurer, knowingly and willfully accepted on behalf of the Committee contributions from corporations. The total amount of corporate contributions received and not refunded is \$7,750.

VI. Mr. Ariola, as Deputy Treasurer, failed to report the total amount of the Committee’s receipts on disclosure reports for the reporting periods during which he was performing the treasurer’s functions. For the relevant time period, the Committee’s receipts were underreported by \$18,248.78.

VII. Respondent knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441a(f) by accepting excessive contributions from individuals and accepting contributions from corporations. Respondent further violated 2 U.S.C. §§ 434(a)(1) and 434(b)(2) by his failure to disclose the Committee's total amount of receipts on disclosure reports for the reporting periods in which he was Deputy Treasurer.

VIII. 1.

2. Respondent has cooperated with the Commission throughout the course of its investigation and this level of cooperation helped to facilitate the resolution of the matter with respect to other respondents.

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3. In light of these circumstances, the Respondent will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand Five Hundred Dollars (\$2,500), pursuant to 2 U.S.C. § 437g(a)(5)(B).

4. Respondent will cease and desist from violating 2 U.S.C. §§ 441b(a), 441a(f), 434(a)(1) and 434(b)(2).

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

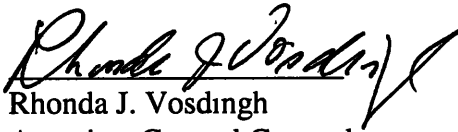
XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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1 FOR THE COMMISSION:

2 Lawrence H. Norton
3 General Counsel

4 BY:

5 
6 Rhonda J. Vosdinger
7 Associate General Counsel
for Enforcement

11/2/05
Date

8 FOR THE RESPONDENT:

9 
10 Thomas M. Ariola, Jr.
11
12

10-7-05
Date

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